



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Commodity Futures Trading Commission (CFTC or Commission) is republishing existing SORN: CFTC-45, Comments Online. The modification will clarify the Categories of Records in the system, add two routine uses, tailor existing routine uses, and bring the SORN in compliance with the Office of Management and Budget (OMB) Circular A-108 SORN template. The update distinguishes summaries of ex parte communications from comments submitted directly by the public in the Categories of Records. The two new routine uses that are proposed pertain to sharing information to mitigate a breach and are required by OMB Memorandum 17-12. Other updates include identifying the specific routine uses applicable to the system of records rather than relying on CFTC's previously published blanket routine uses, and administrative updates to comply with the OMB Circular A-108 SORN template format.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. This action will be effective without further notice on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified as pertaining to "Comments

Online” by any of the following methods:

- Agency website, via its Comments Online process: <https://comments.cftc.gov>.

Follow the instructions for submitting comments through the website.

- Mail: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- Hand Delivery/Courier: Same as Mail, above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations, 17 CFR § 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the comment file and will be considered as required under all applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Melissa Jurgens, Acting Chief Privacy Officer, 202-418-5516, privacy@cftc.gov, Office of the Executive Director,

Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Comments Online

The CFTC is obligated to collect comments on rulemakings and other regulatory action, which it timely publishes on its website to provide transparency in the informal rulemaking process under the Administrative Procedure Act (“APA”), 5 U.S.C. 553, and in the regulatory processes established in the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* The CFTC also may solicit comments or other input from the public that may not be associated with statutory or regulatory notice and comment requirements. The Comments Online system collects and stores comments and input received by the Commission. Specifically, the system includes a web form on <http://www.cftc.gov> allowing individuals to submit their comments or input, along with their name, organization and contact information. Once submitted, the system stores this information in the Comments Online database. Any comments received by fax, postal mail, or email are uploaded by personnel into this database, collecting all comments into one database. The commenter's name, organization, and comment or input are published to <http://www.cftc.gov>. The commenter's contact information, or other additional personal information voluntarily submitted, is not published on the internet, unless the commenter has incorporated such information into the text of his or her comment. During an informal rulemaking or other statutory or regulatory notice and comment process, Commission personnel may manually remove a comment from publication if the commenter withdraws his or her comments before the comment period has closed or

because the comment contains obscenities or other material deemed inappropriate for publication by the Commission. However, comments that are removed from publication will be retained by the Commission for consideration as required by the APA, or as part of the Commission's documentation of a comment withdrawal in the event that one is requested.

II. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a “system of records” is defined as any group of records under the control of a Federal government agency from which information about individuals is retrieved by name or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act establishes the means by which government agencies must collect, maintain, and use information about an individual in a government system of records.

Each government agency is required to publish a notice in the *Federal Register* in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act.

In accordance with 5 U.S.C. 552a(r), CFTC has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

III. Notice: Comments Online, CFTC-45.

SYSTEM NAME AND NUMBER: Comments Online, CFTC-45.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: This system is located at the Commodity Futures Trading

Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SYSTEM MANAGER(S): Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: The collection of this information is authorized under 44 U.S.C. 3101, Administrative Procedure Act, 5 U.S.C. 553 *et seq.*, the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, and rules and regulations promulgated thereunder.

PURPOSE(S) OF THE SYSTEM: The purpose of this system is to collect and maintain feedback from the public and industry groups regarding proposed rules and other Commission regulatory actions in accordance with the Administrative Procedure Act (“APA”) or other statutory or regulatory provisions, as well as input on Commission activities that may not be associated with notice and comment requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals providing comments or other input to the Commission in response to proposed rules, industry filings or other Commission request for comments associated with Commission rules, policies or procedures, whether the individuals provide comments or input directly or through their representatives. The system also includes individuals who may be discussed or identified in the comments or input provided by others to the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM: Records in this system include incoming comments or other input to the Commission in response to proposed rules, industry filings, or other Commission requests for comments associated with Commission rules, policies or procedures, provided to the Commission via the web form on the <http://www.cftc.gov> site, electronic mail, facsimile, or postal mail. Comments or

input submitted through <http://www.cftc.gov> include the full name of the submitter, an email address and the name of the organization, if an organization is submitting the comments. The commenter may optionally provide job title, mailing address, and phone numbers. The comments or input provided may contain other personal information, although the comment submission instructions advise commenters not to include additional personal or confidential information. The system may also contain summaries or memorializations of ex parte communications input by CFTC staff related to the proposed rule, statutory or regulatory provision, or Commission activity.

RECORD SOURCE CATEGORIES: Individuals and organizations providing comments or other input to the Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: These records and information in these records may be used:

(a) To disclose in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act, or in any other action or proceeding in which the Commission or its staff participates as a party or the Commission participates as amicus curiae;

(b) To disclose to Federal, State, local, territorial, Tribal, or foreign agencies for use in meeting their statutory or regulatory requirements;

(c) Information may be disclosed to any “registered entity,” as defined in section 1a of the Commodity Exchange Act, 7 U.S.C. 1, et seq. (“the Act”), to the extent disclosure is authorized and will assist the registered entity in carrying out its responsibilities under the Act. Information may also be disclosed to any registered futures

association registered under section 17 of the Act to assist it in carrying out its self-regulatory responsibilities under the Act, and to any national securities exchange or national securities association registered with the Securities and Exchange Commission to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq.;

(d) To disclose to contractors, grantees, volunteers, experts, students, and others performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government when necessary to accomplish an agency function;

(e) To disclose to Congress upon its request, acting within the scope of its jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. 1 et seq., and the rules and regulations promulgated thereunder;

(f) To disclose to appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; or

(g) To disclose to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to

individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: The Comments Online system of records stores records in this system electronically. The records are stored on the Commission's secure network and secure back-up media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Information covered by this system of records notice may be retrieved by name of the individual providing the comment or input, name of the individual on whose behalf a comment or input is provided, number assigned to the comment or input, or the subject matter, such as the proposed rule or industry filing to which the comment or input pertains.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: Comments received per the notice and comment requirement of the APA will be retained permanently in accordance with the Commission's records disposition schedule. All other submissions received that do not fall under proposed rulemaking will be retained in accordance with the retention period for the appropriate subject item in the Commission's records disposition schedule. All approved schedules are available at

<http://www.cftc.gov>.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures. Administrative safeguards include written guidelines on handling personal information including agency-wide procedures for safeguarding personally identifiable information. In addition, all CFTC staff are required

to take annual privacy and security training. Technical security measures within CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords that are frequently changed; multi-factor authentication for remote access and access to many CFTC network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES: Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

CONTESTING RECORD PROCEDURES: Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. See 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES: Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three

Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act notification request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: A previous version of this SORN was published in the *Federal Register* on April 07, 2011 at 76 FR 19330.

Issued in Washington, DC, on April 22, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

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